

**REMARKS**

Claims 16-37, 94-99, 113 and 114 are pending. Claims 16, 94, 96, 98 and 113 are amended. Entry of the amendments is respectfully requested. No new matter has been added. Applicants request consideration of the pending claims in view of the above amendments and following remarks.

**35 U.S.C. §101 Rejection**

Claims 94-99 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

The MPEP § 2106 defines statutory subject matter, which is clearly encompassed within the scope of the claimed invention. For example, MPEP § 2106 states, in part,

In practical terms, claims define nonstatutory subject processes if they:

- consist solely of mathematical operations without some claimed practical application (i.e. executing a “mathematical algorithm”); or
- simply manipulate abstract ideas, e.g. bid (Schrader, 22 F.3d at 293-294, 30 USPQ2d at 1458-59) or a bubble hierarchy (Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759), without some claimed practical application.

However, the claimed subject matter of claims 94-99 are more than an abstract idea or solely a mathematical formula and are indeed directed to statutory subject matter. For example, claim 94 has been amended to include, in part, the recitation of:

...an electronic stream of energy, control and equipment status data for at least one individual energy user within a plurality of computer controlled energy users, wherein

the electronic stream of data is compiled in real-time by the at least one individual energy user and is received by a management system to control performance of the at least one individual energy user, said electronic stream including a data field to indicate an energy efficiency of the at least one individual energy user based on pre-set rules and at least one data field indicating one or more of (a) air quality, humidity, pollutants, air flow speed, and other physical properties of air; (b) light direction, light color, ambient temperature, foot candle, kw consumption of light producing equipment and other descriptors of physical properties of light; (c) plug load, motion sensed by motion detectors, carbon dioxide levels, brightness, sound levels, automated sensing of human presence; (d) chemical or biological warfare agent detection. (Emphasis added)

As such, Applicants submit that the invention of claim 94 and dependent claim 95 are indeed directed to a technological art involving computer controlled energy users and produce repeatable and concrete results that does not involve human decision to be involved.

Claim 96 has been amended to include, in part, the recitation of:

...leveraging an electronic stream of energy, control and equipment status data for at least one individual energy user within a plurality of computer controlled energy users, wherein the leveraging includes a comparison by a rules based computer based intelligent agent against historic data for a device associated with the at least one energy user wherein the electronic stream of data is compiled in real-time by the at least one individual energy user and is received by a management system to control performance of the at least one individual energy user.

Applicants submit that claim 96 and dependent claim 97 are clearly directed to statutory subject matter that requires the use of a technological basis and has a concrete repeatable result and requires computer implementation to accomplish and does not involve human decision.

Claim 98 has been amended to include, in part, the recitation of:

reviewing an electronic stream of energy, and equipment status data for the individual energy user, wherein the individual energy user is contained within a plurality of computer controlled energy users; and

replacing or repairing at least one of the components of the individual energy user when deemed inefficient by a rules and goal based computerized intelligent agent based on the data. (Emphasis added)

Applicants submit that claim 98 and dependent claim 99 are directed to statutory subject matter and clearly has a technological basis that produces a repeatable and concrete result (e.g., replacing or repairing the individual energy user when deemed inefficient by a rules base computerized agent based on the data) and does not involve human decision. Applicants believe claims 94-99 comply fully with the requirements of 35 U.S.C. §101 and therefore request the withdrawal of the §101 rejections of claims 94-99.

35 U.S.C. §102 Rejections

Claims 16-37 and 94-99 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,785,592 to Smith et al. (“Smith”). Applicants respectfully traverse this rejection.

The invention of Smith is directed to optimizing procurement energy demand (consumption) and energy supply for a facility or complex. The system of Smith ascertains a baseline model and monitors energy consumption and adjusts the energy consumption to reflect dynamic economic factors. The system of Smith also attempts to project energy consumption and may adjust consumption accordingly. The system and method of Smith is also directed to controlling energy consumption by monitoring consumption data from buildings. However, Smith does not disclose or suggest, at least, rules based processing, rules based processing by

intelligent agents, or an electronic stream including a data field to indicate an energy efficiency of the at least one individual energy user based on pre-set rules. Moreover, Applicants submit that in the invention of Smith, the processing of energy data is performed by humans (e.g., col. 6, ll. 4-8, and ll. 39-52; col. 7, ll. 4-29; col. 12, ll. 1-15; col. 13, ll. 50-60; col. 14, ll. 8-11). Therefore, the processing of data is different from the automated non-human processing of the invention of claim 16. However, to more clearly distinguish the invention of claim 16, claim 16 has been amended to recite, in part:

...processing at least one curtailment possibility generated by said at least one energy user based on rules when the at least one relevant energy-related event is determined to be present.

In addition to non-human processing, the Applicants submit that Smith does not disclose at least these features; therefore Applicant submits that claim 16 is distinguishable over Smith and that the 102(e) rejection over claim 16 should now be withdrawn. Applicants believe that claim 16 is now allowable all claims depending therefrom are also allowable due to at least this dependency.

Claim 94 has been amended to recite:

A compilation of energy-relevant data, comprising: an electronic stream of energy, control and equipment status data for at least one individual energy user within a plurality of computer controlled energy users, wherein the electronic stream of data is compiled in real-time by the at least one individual energy user and is received by a management system to control performance of the at least one individual energy user, said electronic stream including a data field to indicate an energy efficiency of the at least one individual energy user based on pre-set rules and at least one data field indicating one or more of (a) air quality, humidity, pollutants, air flow speed, and

other physical properties of air; (b) light direction, light color, ambient temperature, foot candle, kw consumption of light producing equipment and other descriptors of physical properties of light; (c) plug load, motion sensed by motion detectors, carbon dioxide levels, brightness, sound levels, automated sensing of human presence; (d) chemical or biological warfare agent detection.  
(Emphasis added)

Applicants submit that Smith nowhere discloses all the limitations as recited by claim 94.

Applicants submit that the §102(e) rejection of claim 94 should now be withdrawn.

Claim 98 has been amended to recite:

A method of determining whether to repair or replace an individual energy user including a plurality of components, comprising:  
reviewing an electronic stream of energy, and equipment status data for the individual energy user, wherein the individual energy user is contained within a plurality of computer controlled energy users; and  
replacing or repairing at least one of the components of the individual energy user when deemed inefficient by a rules and goals based computerized intelligent agent based on the data.  
(Emphasis added)

Applicants submit that Smith nowhere discloses all the limitations as recited by claim 98. Applicants therefore submit that the §102(e) rejection of claim 98 and dependent claim 99 be withdrawn.

#### Support for New and Amended Claims

Support for amendments to claim 16 may be found at least at page 18, second paragraph.

Support for amendments to claim 94 may be found at least at Figure 4A-5 where it shows computer controlled energy users and at least at page 24, third paragraph, where it

Serial No.: 10/092,507

discloses a data stream relating to individual efficiency of energy-using equipment in view of page 19, first paragraph, and pages 37, table, where it discloses decision making by intelligent agents using neural networks, rule based systems, and original claim 46.

Support for amendments to claim 96 may be found at least at least at Figure 4A-5 where it shows computer controlled energy users in view of at least page 18, last paragraph to page 19 first paragraph, and pages 37, table, where it discloses decision making by intelligent agents using neural networks, rule based systems.

Support for amendments to claim 98 may be found at least at Figures 4B and 5 where it shows an example of computer controlled energy users including a plurality of components such as meters and devices in view of page 19, first paragraph, and pages 37, table, where it discloses decision making by intelligent agents using neural networks, rule based systems.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that all of the outstanding rejections and objections have been traversed or rendered moot and submit that the claims are patentably distinct from the prior art of record and are in condition for allowance, or in the alternative, better form for appeal. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 23-1951.

Respectfully submitted,



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